

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NADA NICHOLSON, As Personal Representative
Of the Estate of TIA L. DARROW,

Plaintiff,

vs.

No. CIV 16-0164 JB/KK

THE EVANGELICAL LUTHERAN GOOD
SAMARITAN SOCIETY, INC., d/b/a GOOD
SAMARITAN - FOUR CORNERS VILLAGE,

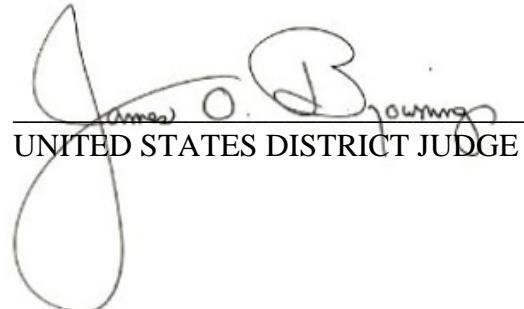
Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Motion to Vacate and Reschedule Rule 16 Scheduling Conference, filed July 15, 2016 (Doc. 13)(“Motion”). The primary issue is whether the Court should reschedule the Rule 16 Scheduling Conference scheduled for August 12, 2016, and reset the matter for the next available date after August 19, 2016. The Court will grant the Motion and deem Plaintiff Nada Nicholson’s failure to file and serve a written response as consent to grant it. The Local Rules for the District of New Mexico state that a response to a motion must be served and filed within fourteen days after service of the motion. See D.N.M.LR-Civ. 7.4(a). Local Rule 7.1(b) states that “[t]he failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion.” D.N.M.LR-Civ. 7.1(b). On July 15, 2016, Defendant The Evangelical Lutheran Good Samaritan Society, Inc., d/b/a Good Samaritan - Four Corners Village filed the Motion and served it on Nicholson. See Motion at 1-2. Nicholson did not serve and file a response to the Motion within fourteen days after service of the Motion. See D.N.M.LR-Civ. 7.4(a). Accordingly, pursuant to Local Rule 7.1(b), the Court will grant the Motion and deem

Nicholson's failure to file and serve a written response as consent to grant it. In any event, the Court has read the Motion and the reason that it states for continuing the scheduling conference constitutes good cause to move the scheduling conference.

IT IS ORDERED that: the Motion to Vacate and Reschedule Rule 16 Scheduling Conference, filed July 15, 2016 (Doc. 13), is granted.



UNITED STATES DISTRICT JUDGE

Counsel:

James P. Lyle
Law Offices of James P. Lyle P.C.
Albuquerque, New Mexico

Attorney for the Plaintiff

Emily Paige Chase-Sosnoff
Jeremy K. Harrison
Martha G. Brown
Modrall Sterling Roehl Harris & Sask P.A.
Albuquerque, New Mexico

Attorneys for the Defendant